

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

TODD BATES a/ka TODD A. BATES and  
MARCIA BATES a/k/a MARCIA C. BATES

Plaintiffs

vs

No. 2018-

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GREEN FARMS CONDOMINIUM  
ASSOCIATION, a Michigan nonprofit  
corporation, THE HIGHLANDER GROUP,  
MMC, INC., and MAKOWER ABBATE  
GUERRA WEGNER VOLLMER, PLLC,

Honorable

Defendants.

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PAUL G. VALENTINO (P34239)  
Attorney for Plaintiffs  
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**COMPLAINT AND JURY DEMAND**

Now come the plaintiffs, TODD BATES a/ka TODD A. BATES and MARCIA BATES a/k/a MARCIA C. BATES, by and through their counsel, PAUL G. VALENTINO, J.D., P.C., and for their complaint against defendants, GREEN FARMS CONDOMINIUM ASSOCIATION, THE HIGHLANDER GROUP, MMC, INC. and MAKOWER ABBATE GUERRA WEGNER VOLLMER, PLLC for Cloud on Slander of title to property commonly known as 7402 Azalea Court, West Bloomfield, Michigan, 48322, Unit 25, Greens Farm Condominium, states as follows:

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**COMMON ALLEGATIONS**

1. Your plaintiffs, TODD BATES a/ka TODD A. BATES and MARCIA BATES a/k/a MARCIA C. BATES (“Bates”) are and were at all times pertinent hereto Michigan residents residing in West Bloomfield, Oakland County, State of Michigan.

2. That defendant, GREEN FARMS CONDOMINIUM ASSOCIATION, (“Green Farms”), is and was at all times pertinent hereto a domestic nonprofit corporation duly organized under the laws of the State of Michigan whose resident agent is The Highlander Group, MMC, Inc., at 3080 Orchard Lake Road, Suite J, Keego Harbor, Michigan, 48320 and whose principal place of business is located in the City of West Bloomfield, County of Oakland, State of Michigan.

3. That defendant, THE HIGHLANDER GROUP, MMC, INC. (“Highlander”), is a Michigan Corporation duly incorporated under the laws of the State of Michigan whose registered agent is Kathleen A. LaBrosse and whose registered office is located at 3080 Orchard Lake Road, Suite J, Keego Harbor, Michigan, 48320 and was at all times relevant hereto hired by defendant, Green Farms, to manage the condominium project.

4. That defendant, MAKOWER ABBATE GUERRA WEGNER VOLLMER, PLLC (“Makower”), is and was at all times pertinent hereto a professional corporation duly incorporated in the State of Michigan whose resident agent is Stephen Guerra and whose registered office is located at 30140 Orchard Lake Road, Farmington Hills, Michigan, 48334.

5. That plaintiffs’ complaint involves the slander to the title to real property commonly known as 7402 Azalea Court, West Bloomfield, Michigan, 48322, Unit 25, Greens Farm Condominium, the “real estate,” by virtue of the filing of a lien claiming unpaid association dues when the defendants were in receipt of the dues and then, in violation of the association by laws,

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proceeded to foreclose on the lien by advertisement.

6. That the property was purchased at the foreclosure sale by Trademark Properties of Michigan, LLC for \$37,859.29.

**BASIS OF JURISDICTION**

7. That the United state District Court has jurisdiction in accordance with 28 USC §1331, 15 USC §1692k(d) and supplemental jurisdiction of the related state law claims in accordance with 28 USC §1367.

**COUNT I - VIOLATION OF FAIR DEBT COLLECTION PRACTICES ACT 15 USC §1692 ET SEQ. (FDCPA)**

8. That plaintiffs, TODD BATES a/ka TODD A. BATES and MARCIA BATES a/k/a MARCIA C. BATES, incorporate the allegations contained in paragraphs 1 through 7 of plaintiffs' complaint as though fully set forth herein, paragraph by paragraph and word for word.

9. That at all times relevant hereto defendants Makower and Highland were acting as debt collectors within the meaning of 15 USC §1692(a)(6).

10. That your plaintiffs are and were at all times relevant hereto protected consumers within the meaning of the FDCPA 15 USC §1692.

11. That the defendants Makower and Highlander did engage in conduct in violation of the FDCPA when they engaged in conduct the natural consequence of which was and is to harass, oppress, or abuse your plaintiffs in violation of 15 USC 1692(d) when they wrongfully recorded a lien against plaintiffs real estate and foreclosed on the real estate by advertisement in violation of the condominium by laws.

12. That the defendants Makower and Highlander did engage in conduct in violation

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of the FDCPA when they falsely represented the character, amount or legal status of plaintiff's condominium association dues, as delinquent, held the cashiers checks paid by your plaintiffs and overstated and falsely added charges in violation of 15 USC §1692e(2)(A) and recorded a false lien and foreclosed on the real property in violation of the condominium by laws.

13. That the defendants, Makower and Highlander have caused your plaintiffs to lose the real property by virtue of the foreclosure sale by advertisement which occurred on or about August 28, 2018 when the real estate was sold to Trademark Properties of Michigan, LLC for \$37,859.29.

14. That the real property has a value in excess of \$150,000.00 and is your plaintiffs residence.

15. That your plaintiffs are entitled to recover all their damages suffered by virtue of defendants Makower and Highlander's violations of the FDCPA including actual damages, additional damages as permitted by the court, all litigation costs including reasonable attorney fees provided by 15 USC §1692k.

WHEREFORE your plaintiffs are entitled to judgment in an amount as determined by a jury including actual damages, additional damages, court costs, and reasonable attorney fees as is deemed just and equitable under the facts and circumstances.

#### **COUNT II - SLANDER OF TITLE**

16. That plaintiffs, TODD BATES a/ka TODD A. BATES and MARCIA BATES a/k/a MARCIA C. BATES, incorporate the allegations contained in paragraphs 1 through 15 of plaintiffs' complaint as though fully set forth herein, paragraph by paragraph and word for word.

17. That the defendants received plaintiffs monthly association dues for the months of December, 2017 through August, 2018 which were hand delivered to defendant Highlander Group

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by plaintiffs who delivered cashier's checks for each installment.

18. That the defendants cashed the checks, retained plaintiffs' monthly payments and liened the real estate on June 15, 2018 claiming unpaid assessments and other sums in the amount of \$2,814.50.

19. That the defendants then foreclosed by advertisement in violation of the bylaws, on plaintiffs' property claiming that the monthly dues were not paid and sold plaintiffs' real property to the highest bidder.

20. That defendants' conduct was knowing and willful, in violation of MCL 565.108 and done with malice.

21. That defendants by their actions wrongfully liened and foreclosed on plaintiffs' property, slandering their title and converting their property.

22. That as a direct result of the willful and malicious conduct of the defendants, plaintiffs' real property was sold at public auction for \$37,859.29.

23. That by virtue of the foregoing the defendants are libel unto plaintiffs for all the damages sustained thereby including but not limited to the value of their real property, the litigation expenses and attorney fees in brining this action.

24 That the claim of lien filed by defendants constitutes a cloud upon plaintiffs' title to the real estate which interfered with plaintiffs fee simple interest in the real property.

WHEREFORE counter plaintiffs pray this honorable court entered judgment in their favor in an amount as determined by a jury including actual costs as is deemed just an equitable under the facts and circumstances.

### **COUNT III - CONVERSION**

25. That plaintiffs, TODD BATES a/ka TODD A. BATES and MARCIA BATES a/k/a

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MARCIA C. BATES, incorporate the allegations contained in paragraphs 1 through 24 of plaintiffs' complaint as though fully set forth herein, paragraph by paragraph and word for word.

26. That the defendants conduct in taking and selling the real property at public auction constitutes statutory conversion in violation of MCL 600.2919(a)

27. That by virtue of defendants statutory conversion of the real property as more particularly described in Count II, plaintiffs are entitled to a judgment against defendants in an amount three times the value of the real property converted together with court costs and reasonable attorney fees.

WHEREFORE, you plaintiffs are entitled to judgment in an amount as determined by a jury including treble damages, actual costs and reasonable attorney fees as is deemed just and equitable under the facts and circumstances.

#### **COUNT IV - CONVERSION**

28. That plaintiffs, TODD BATES a/ka TODD A. BATES and MARCIA BATES a/k/a MARCIA C. BATES, incorporate the allegations contained in paragraphs 1 through 27 of plaintiffs' complaint as though fully set forth herein, paragraph by paragraph and word for word.

29. That the defendants by accepting plaintiffs checks in the amount of \$3,276.24 and not applying the funds to plaintiffs dues obligation, wrongfully exercised dominion and control over those funds.

30. That upon the asserting of such dominion and control over the cashiers checks by the defendants, the act of conversion was complete and plaintiffs are entitled to three times the value of the converted checks together with costs and reasonable attorney fees.

WHEREFORE, your plaintiffs are entitled to judgment in an amount as determined by a jury including treble damages, actual costs and reasonable attorney fees as is deemed just and

equitable under the facts and circumstances.

Respectfully Submitted,

PAUL G. VALENTINO, J.D., P.C.

/s/Paul G. Valentino

Paul G. Valentino (P34239)

Attorney for plaintiffs

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Dated: November 13, 2018

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**JURY DEMAND**

Now come plaintiffs, TODD BATES a/ka TODD A. BATES and MARCIA BATES a/k/a  
MARCIA C. BATES, by and through their counsel, PAUL G. VALENTINO, J.D., P.C., and  
hereby demand a trial by jury of all issues triable by a jury as a matter of right.

Respectfully submitted,

PAUL G. VALENTINO, J.D., P.C.

/s/Paul G. Valentino

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